



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 56] नई दिल्ली, शुक्रवार, दिसम्बर 5, 1986/अग्रहायन 14, 1908
No. 56] NEW DELHI, FRIDAY, DECEMBER 5, 1986/AGRAHAYANA 14, 1908

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 5th December, 1986:—

BILL NO. 144 OF 1986

A Bill further to amend the Indian Post Office Act, 1898.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Post Office (Second Amendment) Act, 1986.

Short
title and
commence-
ment.

(2) It shall come into force on the 1st day of January, 1987.

2. In the Indian Post Office Act, 1898, for the First Schedule, the following Schedule shall be substituted, namely:—

Substitu-
tion of a
new Sched-
ule for
the First
Schedule
to Act
6 of 1898.

"THE FIRST SCHEDULE

(See section 7)

INLAND POSTAGE RATES

Letters

For a weight not exceeding ten grams	60 paise
For every ten grams or fraction thereof, exceeding ten grams	40 paise

Letter-cards

For a letter-card	35 paise
<i>Post cards (not being post cards containing printed communication)</i>	
Single	15 paise
Reply	30 paise

Post cards containing printed communication

For a post card	40 paise
-----------------	----------

Explanation.—A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the right hand half of the address-side thereof.

Book, pattern and sample packets

For the first fifty grams or fraction thereof	50 paise
For every additional fifty grams, or fraction thereof, in excess of fifty grams	50 paise

Registered newspapers

For a weight not exceeding fifty grams	15 paise
For a weight exceeding fifty grams but not exceeding one hundred grams	25 paise
For every additional one hundred grams, or fraction thereof, exceeding one hundred grams	10 paise

In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—

For a weight not exceeding one hundred grams	25 paise
For every additional one hundred grams, or fraction thereof, exceeding one hundred grams	10 paise:

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding five hundred grams	Rs. 4.00
For every five hundred grams, a fraction thereof, exceeding five hundred grams.	Rs. 4.00".

STATEMENT OF OBJECTS AND REASONS

Section 7 of the Indian Post Office Act, 1898 provides that the Central Government may, by notification in the Official Gazette, fix the rates of postage and other sums to be charged in respect of postal articles sent by inland post and that the Central Government may also make rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged. The highest rate of postage when pre-paid shall not exceed the rate set forth in the First Schedule to the Act.

2. The last amendment of the rates mentioned in the First Schedule was made in June 1982. In order to make good partially, the deficit in postal working expenses arising out of the increase on account of pay and allowances consequent upon the implementation of the recommendations of the Fourth Pay Commission and the all-round increase in other operational costs, such as freight charges and electricity tariffs, the rates mentioned in the First Schedule are proposed to be increase. It is anticipated that this increase will result in additional revenue of about Rs. 86 crores during a full year.

3. The Bill seeks to achieve the above object.

NEW DELHI;

The 1st December, 1988.

ARJUN SINGH.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. L-44/86-R, dated the 1st December, 1986 from Shri Arjun Singh, Minister of Communications to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Indian Post Office (Second Amendment) Bill, 1986, recommends under Clause (1) of article 117 of the Constitution of India, the introduction of the said Bill in Lok Sabha.

BILL No. 143 of 1986

A Bill to abolish the Shipping Development Fund Committee constituted under the Merchant Shipping Act, 1958 and to provide for certain matters incidental thereto.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Shipping Development Fund Committee (Abolition) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "Act" means the Merchant Shipping Act, 1958;

(b) "appointed day" means the date of commencement of this Act;

(c) "Committee" means the Shipping Development Fund Committee constituted under section 15 of the Act;

(d) "designated person" means the person appointed as such under section 16 of this Act;

Short
title and
com-
mence-
ment.

Defini-
tions.

(e) "Fund" means the Shipping Development Fund formed under section 14 of the Act;

(f) "notified order" means an order notified in the Official Gazette;

(g) "shipowner" means a person of the description mentioned in section 21 of the Act or who had obtained loans or financial assistance in any other form from the Committee;

(h) "shipping concern" means any concern engaged in the business of shipping, owned, controlled or managed by a shipowner.

CHAPTER II

ABOLITION OF THE SHIPPING DEVELOPMENT FUND COMMITTEE AND VESTING OF ASSETS AND LIABILITIES OF THE COMMITTEE IN THE CENTRAL GOVERNMENT

Abolition of the Shipping Development Fund Committee and consequential amendments in the Act.

3. On and from the appointed day, the Shipping Development Fund Committee constituted under section 15 of the Act shall stand abolished, and accordingly the Act shall stand amended as follows:—

(a) in the long title, the words "and a Shipping Development Fund" shall be omitted;

(b) Part IV shall be omitted.

Consequential provisions.

4. On the abolition of the Committee,—

(a) all the rights and privileges of the Committee shall become the rights and privileges of the Central Government;

(b) all properties, movable and immovable, including cash balances, reserve funds, instruments and moneys lying to the credit of the Committee and all rights and interests in, or arising out of such properties as were immediately before the appointed day, in the ownership, possession, power or control of the Committee, and all books of account, registers, records and all other documents of whatever nature relating thereto shall vest in the Central Government;

(c) all borrowings, liabilities and obligations of the Committee of whatever kind and subsisting immediately before the appointed day, shall be deemed, on and from such day, to be the borrowings, liabilities and obligations, as the case may be, of the Central Government; and

(d) all contracts entered into, and all matters and things engaged to be done by, with or for, the Committee and subsisting immediately before the appointed day shall be deemed, on and from such day, to have been entered into, or engaged to be done by, with or for, the Central Government.

5. (1) If on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the Fund or the Committee is pending by or against such Committee, the same shall not be discontinued, or be in any way prejudicially affected by reason of the abolition of the Committee; but such suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government.

Continuation of suits, etc., against Central Government.

(2) Where, before the appointed day, no cause of action for any suit or proceeding or any right to appeal arose in favour of, or against the Committee and the institution of any suit or proceeding on such cause of action or the filing of such appeal was not barred before the appointed day, such suit or proceeding may be instituted or appeal may be filed by or against the Central Government.

6. On the appointed day, all moneys and cash balances lying in the credit of the Committee shall become part of, and be credited to, the Consolidated Fund of India.

Moneys, etc., of the Committee to be credited to the Consolidated Fund of India.

7. (1) Every person, who has been, immediately before the appointed day, employed under the Committee, shall become, on and from the appointed day, an employee of the Central Government and shall hold office under the Central Government with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government.

Transfer of services of existing employees of the Committee.

14 of 1947.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed under the Committee shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(3) Where, under the terms of any contract of service or otherwise, any person, whose services stand transferred to the Central Government by reason of the provisions of this Act, is entitled to any arrears of salary or wages or any payments for any leave not availed of, or to any other payment, not being payment by way of gratuity or pension, such person may enforce his claim against the Central Government.¹

CHAPTER III

SPECIAL POWERS OF THE CENTRAL GOVERNMENT

Power of
Central
Govern-
ment to
call for
repay-
ment
before
agreed
period.

8. Notwithstanding anything contained in any other law for the time being in force or anything in any agreement to the contrary, the Central Government may, by notice in writing, require a shipowner to whom the Committee had granted any financial assistance at any time before the appointed day, to discharge forthwith in full his entire dues and also discharge his other liabilities to the Central Government, if—

(a) it appears to the Central Government that false or misleading information in any material particular was given by the shipowner for the purpose of procuring or for continuing to procure the benefit of such financial assistance; or

(b) the shipowner has failed to comply with the terms of his agreement with the Committee; or

(c) there is a reasonable apprehension that the shipowner is unable to pay his debts or, that proceedings for liquidation have been or may be commenced against the shipowner; or

(d) the Central Government has reason to believe that the shipowner has not used or applied the financial assistance granted by the Committee strictly for the purpose for which it was granted or has otherwise misapplied or misappropriated the same for wrongful gain; or

(e) the property assigned, charged, hypothecated, mortgaged or pledged to the Committee as security for financial assistance is not insured or kept insured by the shipowner to the satisfaction of the Central Government, or if such property has depreciated in value to such an extent that, in the opinion of the Central Government, further security to the satisfaction of the Central Government should be given and such security is not given; or

(f) without the permission of the Central Government any ship, machinery, plant or other property, whether forming part of the security or otherwise, is removed by such shipowner without being replaced; or

(g) for any other reason, it is necessary so to do to protect the interests of the Central Government.

Explanation.—For the purposes of this Act, “financial assistance” shall include any loan, advance or monetary assistance including any guarantee or counter-guarantee given to the shipowner by the Committee at any time before the appointed day.

Appoint-
ment of
receiver
without
interven-
tion of
court.

9. (1) Where the Central Government issues a notice under section 8 and the shipowner fails to comply with such notice, the Central Government may, notwithstanding anything contained in any other law for the time being in force or anything contrary contained in any agreement, deed or other instrument in the nature of any guarantee or counter-guarantee, appoint, without intervention of the court, a receiver to

detain and take possession of any ship or other assets belonging to the shipowner whether mortgaged, hypothecated or charged, with power to--

(i) sell such ship or other assets by public auction notwithstanding anything to the contrary contained in section 51 of the Act;

(ii) demand and recover all the income in respect of which he is appointed receiver of any such ship or other assets and to appropriate the same in the discharge of rents, taxes and other dues and outgoings affecting the same and in payment of the liabilities of the shipowner under any mortgage, hypothecation or charge to the Central Government; or

(iii) use, operate, charter or lease such ship or other assets to generate incomes, rents or profits to meet the liabilities of the shipowner to the Central Government under the mortgage, hypothecation or charge, and pay the residue, if any, of the money received by him to the person who, but for the appointment of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to such property.

(2) A receiver appointed under this section shall be deemed to be the agent of the shipowner and the shipowner shall be solely responsible for the receiver's acts or defaults unless such acts or defaults are due to any improper intervention on the part of the Central Government.

10. (1) Where the Central Government requires a shipowner to discharge his dues and liabilities pursuant to a notice issued under section 8 and the shipowner fails to comply with such notice, the Central Government may, notwithstanding anything contained in any other law for the time being in force, or anything contrary contained in any agreement, deed or other instrument in the nature of any guarantee or counter-guarantee, and without prejudice to anything contained in section 9, by notified order, appoint as many persons as it thinks fit,—

Appoint-
ment of
directors
and
adminis-
trators.

1 of 1956

(a) to be directors of the company, if the shipowner is a company, as defined in the Companies Act, 1956, or

(b) in any other case, to be the administrators of the shipping concern.

(2) The power to appoint directors or administrators under this section includes the power to appoint any individual, firm or body corporate to be the directors or, as the case may be, administrators, on such terms and conditions as the Central Government may think fit.

(3) For the removal of doubts, it is hereby declared that the power to appoint directors or administrators include the power to remove or replace the persons so appointed.

1 of 1956.

(4) Nothing in the Companies Act, 1956, or in any other law for the time being in force, or in any instrument relating to the shipowner, if it is a company shall, in so far as it makes, in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directors or directorships, retirement by rotation or removal from office, apply to any director appointed by the Central Government under this section,

Effect of
notified
order.

11. (1) On the issue of a notified order under section 10—

(a) if the shipowner is a company as defined in the Companies Act, 1956, all persons holding office as directors of the shipowner, and in any other case, all persons holding any office having the powers of superintendence, direction and control immediately before the issue of the notified order, shall be deemed to have vacated their offices as such;

(b) any contract of management between the shipowner and any director or person referred to in clause (a) and holding office as such immediately before the issue of the notified order shall be deemed to have been terminated.

1 of 1956.

(2) The directors or administrators, appointed under section 10, shall take such steps as may be necessary to take into their custody or under their control, the property, effects and actionable claims to which the shipowner is, or appears to be, entitled, and all the property and effects of the shipowner shall be deemed to be in the custody of the directors or administrators, as the case may be, as from the date of the notified order.

(3) Subject to the other provisions of this Act, the directors appointed under section 10, shall, for all purposes, be the directors of such company duly constituted under the Companies Act, 1956, and such directors shall alone be entitled to exercise all the powers of such director.

1 of 1956.

Powers
and
duties of,
directors
and admin-
istrators.

12. Subject to the control of the Central Government, the directors, or, as the case may be, the administrators appointed under section 10, shall take such steps as may be necessary for the purpose of efficiently managing the business of the shipowner and shall exercise such powers and discharge such duties as may be exercisable by persons in charge of managing the said business.

No right
to com-
pensation
for termi-
nation of
contract of
manage-
ment,
etc.

13. (1) Notwithstanding anything to the contrary contained in any contract or in any law for the time being in force, no managing or whole-time director or any other director or a manager or any person in charge of management of a shipowner which is a company shall be entitled to any compensation for the loss of office or for the premature termination, under this Act, of any contract of management entered into by him with such company.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing or whole-time director, or any other director or manager or any such person in charge of management to recover from the shipowner moneys recoverable otherwise than by way of such compensation.

Applica-
tion of
Act 1 of
1956.

14. (1) Where directors have been appointed under section 10 in relation to a company, then, notwithstanding anything contained in the Companies Act, 1956 or in the memorandum or articles of association of such company,—

(a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed at any meeting of the shareholders of such company shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of such company or for the appointment of a receiver in respect thereof shall lie or be continued in any court, except with the consent of the Central Government.

(2) Subject to the other provisions of this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to a shipowner which is a company in the same manner as it applied thereto before the issue of the notified order under section 10.

1 of 1956.

15. (1) Any amount payable to the Central Government by the shipowner pursuant to a notice issued under section 8 may be recovered in the same manner as an arrear of land revenue.

Recovery
of dues
as arrear
of land
revenue.

(2) The Central Government may, for purposes of sub-section (1), appoint an officer to prepare a certificate specifying the amount due from such shipowner and send it to the Collector of the district in which the shipowner owns any property or carries on business provided that the officer so appointed shall, before sending the certificate to the Collector, give an opportunity of being heard to the shipowner.

(3) The Collector shall, on receipt of such certificate, proceed to recover from such shipowner the amount specified in the certificate.

16. (1) The Central Government may, by notification in the Official Gazette, and subject to such conditions, restrictions and limitations as may be specified therein or otherwise, delegate all or any of its powers and functions under this Chapter to a designated person.

Delega-
tion of
powers
to the
designa-
ted
person.

(2) Where any notification has been issued under sub-section (1), the provisions of this Act shall apply in relation to the designated person as they apply in relation to the Central Government in respect of any matter in relation to which the powers and functions of the Central Government have been delegated to the designated person.

CHAPTER IV

MISCELLANEOUS

17. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the memorandum or articles of association of any company which is a shipowner or in any agreement, deed or other instrument having effect by virtue of any law other than this Act.

Effect of
the Act
on other
laws.

18. No suit or other legal proceeding shall lie against the Central Government or any director or administrator appointed by the Central Government or the designated person or any officer or other employee of the Central Government or the designated person for any loss or damage caused or likely to be caused by anything which is in a good faith done or intended to be done in pursuance of this Act or any other law or provision having the force of law.

Protec-
tion of
action
taken
in good
faith.

Indemni-
fication of
directors,
etc.

19. Every director or administrator appointed under section 10 and the designated person appointed under section 16 shall be indemnified by the Central Government against all losses and expenses incurred by him in relation to the discharge of his duties, except such as are caused by his own wilful act or default.

Directors,
etc. to be
public
servants.

20. Every director or administrator appointed under section 10 and the designated person appointed under section 16 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1880.

STATEMENT OF OBJECTS AND REASONS

The Shipping Development Fund Committee (SDFC) was established by the Government in 1959 under section 15 of the Merchant Shipping Act, 1958. The main function of the SDFC is to administer the Shipping Development Fund, formed with grants and loans from the Government, which is utilized for granting loans and extending different types of financial assistance for purposes of acquisition and maintenance of ships. The current fall in freight rates and the recession in the international shipping industry have placed a considerable financial burden on the SDFC and affected its ability to finance new ship acquisitions. Although the SDFC performed well its role as a developmental body, its record in respect of enforcing recovery of loans extended by it has been well below expectations. The Government has since decided to establish a new financing agency under the Companies Act, 1956 in the place of the SDFC which would be endowed with wider financial responsibilities and greater flexibility of operations.

2. It is, therefore, considered necessary through legislation to abolish the Shipping Development Fund and the SDFC and provide, among other things, for the vesting of the assets and liabilities thereof in the Government, transfer of the employees of the SDFC to the Government, special powers of recovery of outstanding dues of the Committee, including appointment of receiver without intervention of courts, appointment of directors and administrators, recovery of dues as arrears of land revenue and a power to recall loans before the agreed period to Government. These powers could be exercised by the Government directly or through a designated person.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

The 26th November, 1986.

VISHWANATH PRATAP SINGH.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 10/65/84-CIE-1, dated 28th November, 1986 from Shri Vishwanath Pratap Singh, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to abolish the Shipping Development Fund Committee constituted under the Merchant Shipping Act, 1958, and to provide for certain matters incidental thereto, recommends under clauses (1) and (3) of article 117 of the Constitution of India, the introduction and consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clauses 4, 5 and 7 of the proposed legislation dealing with consequential provisions and continuation of suits against the Central Government and transfer of services of the existing employees of the SDFC may involve expenditure out of the Consolidated Fund of India. It has not been possible at this stage to correctly estimate such expenditure. However, as on date, SDFC's guarantees and counter-guarantees amount to a total value of about Rs. 626 crores. The transfer of the employees of the SDFC to the Government would entail a recurring yearly expenditure of approximately Rs. 18 lakhs.

BILL NO. 145 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Fifty-fifth Amendment) Act, 1986.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 371G of the Constitution, the following article shall be inserted, namely:—

Insertion
of new
article
371H.

“371H. Notwithstanding anything in this Constitution,—

(a) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order in the State of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken;

Special
provision
with res-
pect to
the State
of
Arunachal
Pradesh.

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Arunachal Pradesh, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(b) the Legislative Assembly of the State of Arunachal Pradesh shall consist of not less than thirty members.”.

STATEMENT OF OBJECTS AND REASONS

The Government of India have proposed to confer statehood on the Union territory of Arunachal Pradesh. It has also been proposed as follows:—

- (i) Having regard to the sensitive location of Arunachal Pradesh, the Governor of the proposed new State shall have special responsibility with respect to law and order in the State and in the discharge of his function thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgement as to the action to be taken and this special responsibility of the Governor shall cease when the President by order so directs;
- (ii) the Legislative Assembly of the new State of Arunachal Pradesh shall consist of forty members. But as it is proposed to make the existing thirty-member Legislative Assembly of the Union territory of Arunachal Pradesh to be the provisional Legislative Assembly for the new State of Arunachal Pradesh until elections are held on the expiry of the five year term of the existing Assembly, it is proposed to provide that the Legislative Assembly of the new State of Arunachal Pradesh shall consist of not less than thirty members.

2. In order to give effect to the above proposals, it is necessary to make special provisions in the Constitution. This Bill accordingly seeks to amend the Constitution to provide for the aforesaid matters. A separate Bill for the establishment of the new State relatable to article 2 is also being introduced.

NEW DELHI;

BUTA SINGH.

The 1st December, 1986.

BILL NO. 147 OF 1986

A Bill to provide for the establishment of the State of Arunachal Pradesh and for matters connected therewith.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. This Act may be called the State of Arunachal Pradesh Act, 1986. Short title.
2. In this Act, unless the context otherwise requires,—Defini-
tions.
 - (a) "Administrator" means the Administrator appointed by the President under article 239;
 - (b) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;
 - (c) "article" means an article of the Constitution;
 - (d) "Election Commission" means the Election Commission appointed by the President under article 324;
 - (e) "existing Union territory of Arunachal Pradesh" means the Union territory of Arunachal Pradesh as existing immediately before the appointed day;

(f) "law" includes any enactment, Ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or any part of the existing Union territory of Arunachal Pradesh;

(g) "sitting member", in relation to either House of Parliament or of the Legislative Assembly of the existing Union territory of Arunachal Pradesh, means a person who, immediately before the appointed day, is a member of that House or that Assembly;

(h) "treasury" includes a sub-treasury.

PART II

ESTABLISHMENT OF THE STATE OF ARUNACHAL PRADESH

Establishment of the State of Arunachal Pradesh.

3. On and from the appointed day, there shall be established a new State, to be known as the State of Arunachal Pradesh comprising the territories which immediately before that day were comprised in the existing Union territory of Arunachal Pradesh.

Amendment of First Schedule to the Constitution.

4 On and from the appointed day, in the First Schedule to the Constitution,—

(a) under the heading "I. THE STATES", after entry 23, the following entry shall be inserted, namely:—

"24. Arunachal Pradesh The territories specified in section 7 of the North-Eastern Areas (Reorganisation) Act, 1971.";

(b) under the heading "II. THE UNION TERRITORIES", entry 8 relating to Arunachal Pradesh shall be omitted.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

Amendment of Fourth Schedule to the Constitution.

5. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(a) entries 24 and 25 shall be re-numbered as entries 25 and 26 respectively, and before entry 25 as so re-numbered, the following entry shall be inserted, namely:—

"24. Arunachal Pradesh.1";

(b) entry 26 shall be omitted.

Allocation of sitting member.

6. (1) On and from the appointed day, the sitting member of the Council of States representing the existing Union territory of Arunachal Pradesh shall be deemed to have been duly elected under clause (4) of article 80 to fill the seat allotted to the State of Arunachal Pradesh in that Council.

(2) The term of office of such sitting member shall remain unaltered.

Amendment of section 27A of Act 43 of 1950.

7. On and from the appointed day, in section 27A of the Representation of the People Act, 1950, in sub-section (4), for the words "The electoral college for each of the Union territories of Arunachal Pradesh and Pondicherry", the words "The electoral college for the Union territory of Pondicherry" shall be substituted.

The House of the People

43 of 1950.

8. (1) On and from the appointed day, the allocation of seats to the State of Arunachal Pradesh in the House of the People shall be two; and the First Schedule to the Representation of the People Act, 1950, shall be deemed to be amended accordingly.

Alloca-
tion of
seats in
the exist-
ing House
of the
People.

(2) On and from the appointed day, the two parliamentary constituencies of the existing Union territory of Arunachal Pradesh shall be deemed to be the parliamentary constituencies of the State of Arunachal Pradesh and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall be construed accordingly.

9. The sitting members of the House of the People representing the constituencies which, on the appointed day, by virtue of the provisions of section 8 become the constituencies of the State of Arunachal Pradesh shall be deemed to have been elected under sub-clause (a) of clause (1) of article 81 to the House of the People by those constituencies.

Provision
as to sit-
ting
members.

The Legislative Assembly

43 of 1950.

10. On and from the appointed day, the total number of seats in the Legislative Assembly of the State of Arunachal Pradesh to be filled by persons, chosen by direct election from assembly constituencies shall be forty; and the Second Schedule to the Representation of the People Act, 1950, shall be deemed to be amended accordingly.

Provision
as to
Legisla-
tive
Assembly.

11. (1) Notwithstanding anything contained in this Act (including provisions relating to the strength of the Legislative Assembly of the State of Arunachal Pradesh), on and from the appointed day and until the Legislative Assembly of that State has been duly constituted and summoned to meet for the first session, there shall be a provisional Legislative Assembly which shall consist of members elected by the territorial constituencies of the Legislative Assembly of the existing Union territory of Arunachal Pradesh.

Provi-
sional
Legisla-
tive As-
sembly.

20 of 1963.

(2) The period of five years referred to in clause (1) of article 172 shall, in the case of the provisional Legislative Assembly referred to in sub-section (1), be deemed to have commenced on the day on which the duration of the existing Legislative Assembly of the Union territory of Arunachal Pradesh commenced under section 5 of the Government of Union Territories Act, 1963.

(3) The provisional Legislative Assembly constituted under this section shall, for so long as it is in existence, be deemed to be the Legislative Assembly of the State of Arunachal Pradesh and shall be competent to discharge all the functions of a Legislative Assembly of a State under the Constitution.

12. The persons who immediately before the appointed day are the Speaker and the Deputy Speaker of the Legislative Assembly of the Union territory of Arunachal Pradesh, shall be the Speaker and the Deputy Speaker, respectively, of the provisional Legislative Assembly of the State of Arunachal Pradesh on and from that day.

Speaker
and De-
puty
Speaker.

13. The rules of procedure and conduct of business of the Legislative Assembly of the existing Union territory of Arunachal Pradesh as in

Rules of
procedurc.

force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the provisional Legislative Assembly of the State of Arunachal Pradesh, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

Delimitation of constituencies

Delimitation of constituencies.

14. (1) The Election Commission shall, in the manner herein provided distribute, whether before or after the appointed day the seats assigned to the Legislative Assembly of the State of Arunachal Pradesh under section 10 to single-member territorial constituencies and delimit them having regard to the provisions of the Constitution and to the following provisions, namely:—

(a) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(b) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

(2) For the purpose of assisting it in the performance of its functions under sub-section (1), the Election Commission shall associate with itself as associate members,—

(a) the sitting members of the House of the People referred to in section 9; and

(b) such six of the members of the Legislative Assembly of the existing Union territory of Arunachal Pradesh or, as the case may be, the provisional Legislative Assembly referred to in section 11 as the Speaker thereof may nominate:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(3) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled, if practicable in accordance with the provisions of sub-section (2).

(4) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof, in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(5) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the existing Union territory of Arunachal Pradesh or, as the case may be, the provisional Legislative Assembly referred to in section 11.

15. (1) The Election Commission may, from time to time, by notification in the Official Gazette,—

Power of Election Commission to maintain delimitation orders up-to-date.

(a) correct any printing mistake in any order made under section 14 or any error arising therein from inadvertent slip or omission;

(b) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the Legislative Assembly of the existing Union territory of Arunachal Pradesh, the provisional Legislative Assembly referred to in section 11 or the Legislative Assembly of the State of Arunachal Pradesh, as the case may be.

16. (1) On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the First Schedule.

Amendment of Scheduled Castes Orders.

(2) On and from the appointed day, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, shall stand amended as directed in the Second Schedule.

17. (1) On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Third Schedule.

Amendment of Scheduled Tribes Orders.

(2) On and from the appointed day, the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, shall stand amended as directed in the Fourth Schedule.

PART IV

HIGH COURT

18. (1) On and from the appointed day,—

(a) there shall be a common High Court for the States of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh to be called the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh) (hereinafter referred to as the common High Court);

(b) the Judges of the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the common High Court.

Common High Court for Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh.

(2) The expenditure in respect of the salaries and allowances of the Judges of the common High Court shall be allocated amongst the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura in such proportion as the President may, by order, determine.

Provision
as to
advocates.

19. (1) On and from the appointed day,—

(a) in the Advocates Act, 1961, in section 3, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

“(b) for the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura to be known as the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh;”;

(b) the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram shall be deemed to be the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh.

(2) Any person who, immediately before the appointed day, is an advocate entitled to practise in the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram shall be entitled to practise as an advocate in the common High Court.

(3) All persons who, immediately before the appointed day, are advocates on the roll of the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram shall, as from that day, become advocates on the roll of the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh.

(4) The right of audience in the common High Court shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram:

Provided that as among the Advocates-General of the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, the right of audience shall be determined with reference to their dates of enrolment as advocates.

Practice
and pro-
cedure in
the com-
mon High
Court.

20. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram shall, with the necessary modifications, apply in relation to the common High Court.

Custody
of seal
of the
common
High
Court.

21. The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram shall, with the necessary modifications, apply with respect to the custody of the Seal of the common High Court.

Form of
writs and
other
proces-
ses.

22. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the common High Court.

Powers
of
Judges.

23. The law in force immediately before the appointed day with respect to the powers of the Chief Justice, single Judges and division courts of the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram and with respect to all matters, ancillary to the

2 of 1961.

exercise of those powers shall, with the necessary modifications, apply in relation to the common High Court.

24. (1) The principal seat of the common High Court shall be at the same place at which the principal seat of the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram is located immediately before the appointed day.

Principal seat and other places of sitting of the common High Court.

(2) The President may, by notified order, provide for the establishment of a permanent bench or benches of the common High Court at one or more places within the territories to which the jurisdiction of the High Court extends, other than the principal seat of the High Court, and for any matters connected therewith:

Provided that before issuing any order under this sub-section, the President shall consult the Chief Justice of the common High Court and the Governor of the State in which the bench or benches is or are proposed to be established.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judges and division courts of the common High Court may also sit at such other place or places in the States of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh as the Chief Justice may, with the approval of the Governor of the State concerned, appoint.

25. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the common High Court.

Procedure as to appeals to Supreme Court.

26. (1) All proceedings pending in the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram immediately before the appointed day shall, from such day, stand transferred to the common High Court.

Transfer of proceedings from the High Court of Assam, Nagaland, Meghalaya, Tripura and to Mizoram the common High Court.

(2) Every proceeding transferred under sub-section (1) shall be disposed of by the common High Court as if such proceeding was entertained by that High Court.

27. For the purposes of section 26,—

Interpretation.

(a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(b) references to a High Court shall be construed as including references to a Judge or division court thereof; and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

Right to appear or to act in proceedings transferred to the common High Court.

Saving.

28. Any person who, immediately before the appointed day, is an advocate entitled to practise in the High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram and was authorised to appear or to act in any proceedings transferred from the said High Court to the common High Court under section 26 shall have the right to appear or to act, as the case may be, in the common High Court in relation to those proceedings.

29. Nothing in this Part shall affect the application to the common High Court of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provisions.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Authorisation of expenditure pending its sanction by the Legislature.

30. (1) The President may, at any time before the appointed day, authorise by order such expenditure from the Consolidated Fund of the State of Arunachal Pradesh as he deems necessary for period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislative Assembly of the State of Arunachal Pradesh:

Provided that the Governor of Arunachal Pradesh may, after the appointed day, authorise by order such further expenditure as he deems necessary from the Consolidated Fund of the State of Arunachal Pradesh for any period not extending beyond the said period of six months.

(2) The President or, as the case may be, the Governor of Arunachal Pradesh shall make separate orders under sub-section (1) in respect of periods falling in different financial years.

Reports relating to the accounts of the existing Union territory of Arunachal Pradesh.

31. (1) The reports of the Comptroller and Auditor-General of India referred to in section 49 of the Government of Union Territories Act, 1963, relating to the accounts of the existing Union territory of Arunachal Pradesh in respect of any period prior to the appointed day, shall be submitted to the Governor of Arunachal Pradesh who shall cause them to be laid before the Legislative Assembly of the State.

20 of 1963.

(2) The Governor may, by order,—

(a) declare any expenditure incurred out of the Consolidated Fund of the existing Union territory of Arunachal Pradesh on any service in respect of any period prior to the appointed day during the financial year 1986-87 or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised, and

(b) provide for any action to be taken on any matter arising out of the said reports.

Allowances and privileges of Governor of Arunachal Pradesh.

32. The allowances and privileges of the Governor of Arunachal Pradesh shall, until the Governors (Emoluments, Allowances and Privileges) Act, 1982, comes into force, be such as the President may, by order, determine.

43 of 1982.

58 of 1957.
24 of 1979.
9 of 1982.

33. The President shall, by order, determine the grants-in-aid of the revenues of the State of Arunachal Pradesh and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend hereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) Order, 1985 in such manner as he thinks fit.

Distribution
of revenues.

PART VI

ASSETS AND LIABILITIES

34. (1) All such property and assets within the existing Union territory of Arunachal Pradesh as are held immediately before the appointed day by the Union for purposes of governance of that Union territory shall, on and from that day, pass to the State of Arunachal Pradesh unless the purposes for which such property and assets are so held are Union purposes:

Property,
assets,
rights,
liabilities,
obligations,
etc.

Provided that the cash balances in the treasuries in the existing Union territory of Arunachal Pradesh before the appointed day shall, as from that day, vest in the State of Arunachal Pradesh.

(2) All rights, liabilities and obligations (other than those relating to, or in connection with, a Union purpose), whether arising out of any contract or otherwise, which are, immediately before the appointed day,—

(a) the rights, liabilities and obligations of the Central Government arising out of, or in connection with, the governance of the existing Union territory of Arunachal Pradesh; or

(b) the rights, liabilities and obligations of the Administrator of the existing Union territory of Arunachal Pradesh in his capacity as such, or of the Government of that Union territory,

shall, on and from the appointed day, be the rights, liabilities and obligations of the Government of the State of Arunachal Pradesh.

(3) The right to recover arrears of—

(a) any tax or duty being a tax or duty enumerated in the State List in the Seventh Schedule to the Constitution; or

(b) any duty referred to in article 268; or

74 of 1956.

(c) any tax under the Central Sales Tax Act, 1956,

which have fallen due in the existing Union territory of Arunachal Pradesh, shall pass to the State of Arunachal Pradesh.

(4) The provisions of this section shall not apply to, or in relation to,—

(a) any institution, undertaking or project the expenditure in relation to which is, immediately before the appointed day, met from and out of the Consolidated Fund of India;

(b) any property which has been placed by the Union at the disposal of the administration of the existing Union territory of Arunachal Pradesh subject to the condition that the ownership thereof will continue to vest in the Union.

Explanation.—For the purposes of this section,—

(a) “liability” includes liability in respect of any civil deposit, local fund deposit, charitable or other endowment, provident fund account, pension or actionable wrong;

(b) “Union purposes” means the purposes of Government relatable to any of the matters mentioned in the Union List.

PART VII

PROVISIONS AS TO SERVICES

Provi-
sions re-
lating to
All-India
Services.

35. Every member of the Indian Administrative Service, the Indian Police Service and the Indian Forest Service who, immediately before the appointed day, is holding any post in the existing Union territory of Arunachal Pradesh shall, until otherwise directed by the Central Government, be deemed to be on deputation, on and from the appointed day, to the Government of the State of Arunachal Pradesh on the same terms and conditions of service as are applicable to him under the relevant cadre rules:

Provided that the period of such deputation shall in no case extend beyond a period of three years from the appointed day.

Explanation.—In this section, “cadre rules” means the Indian Administrative Service (Cadre) Rules, 1954, the Indian Police Service (Cadre) Rules, 1954 or the Indian Forest Service (Cadre) Rules, 1966, as the case may be.

Provisions
relating
to other
services.

36. (1) Every person who immediately before the appointed day is serving in connection with the affairs of the Union under the administrative control of the Administrator of the Union territory of Arunachal Pradesh shall, unless otherwise directed by an order of the Central Government, be deemed to have been allocated for service as from that day in connection with the affairs of the State of Arunachal Pradesh:

Provided that no directions shall be issued under this section after the expiry of a period of one year from the appointed day.

(2) The provisions of this section shall not apply in relation to persons to whom the provisions of section 35 apply.

Other
provi-
sions as
to ser-
vices.

37. (1) Nothing in this section or section 36 shall be deemed to affect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the State of Arunachal Pradesh:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person referred to in section 36 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person deemed to have been allocated under section 36 in connection with the administration of the existing Union territory of Arunachal Pradesh, shall be deemed to have been rendered in connection with the affairs of the State of Arunachal Pradesh for the purposes of the rules regulating his conditions of service.

38. Every person who, immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the affairs of the existing Union territory of Arunachal Pradesh shall continue to hold the same post or office and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or other appropriate authority in, the State of Arunachal Pradesh on the same terms and conditions of appointment and on the same tenure as he was holding the post or office immediately before that day:

Provisions as to continuance of officers in same posts.

Provided that nothing in this section shall be deemed to prevent a competent authority on or after the appointed day from passing in relation to such person any order affecting his continuance in such post or office.

39. The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to—

Advisory Committees.

(a) the discharge of its functions under this Part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

40. Notwithstanding anything to the contrary contained in any law or rule for the time being in force, no representation shall lie against any order passed under the provisions of this Part on the expiry of three months from the date of publication or service, whichever is earlier, of such order:

Prohibition of representation after certain period.

Provided that the Central Government may, *suo motu* or otherwise and for reasons to be recorded, re-open any matter and pass such orders thereon as may appear to it to be appropriate if it is satisfied that it is necessary so to do in order to prevent any miscarriage of justice to any affected person.

41. The Central Government may give such directions to the Government of the State of Arunachal Pradesh as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions.

Power of Central Government to give directions.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

42. On and from the appointed day,—

(a) in article 210, in clause (2), in the second proviso, for the words "Legislature of the State of Mizoram", the words "Legislatures of the States of Arunachal Pradesh and Mizoram" shall be substituted;

(b) in article 239A, in clause (1), for the words "Pondicherry and Arunachal Pradesh", the words "and Pondicherry" shall be substituted;

(c) in article 240, in clause (1),—

(i) entry (a) shall be omitted;

Amendment of article 210, article 239A and article 240 of the Constitution.

(ii) in the provisos, for the words "Pondicherry or Arunachal Pradesh", the words "or Pondicherry" shall be substituted.

Amend-
ment of
Act 28
of 1958.

43. On and from the appointed day, in the Armed Forces (Special Powers) Act, 1958, in the long title and in sub-section (2) of section 1, for the words "Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura and the Union territory of Arunachal Pradesh", the words "Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura" shall be substituted.

Amend-
ment of
Act 20
of 1963.

44 On and from the appointed day, in the Government of Union Territories Act, 1963,—

(i) in clause (h) of sub-section (1) of section 2, for the words "Pondicherry and Arunachal Pradesh", the words "and Pondicherry" shall be substituted;

(ii) in section 33, in sub-section (2), the proviso shall be omitted;

(iii) in section 44, sub-section (2) shall be omitted.

Amend-
ment of
Act 84
of 1971.

45. On and from the appointed day, in the North-Eastern Council Act, 1971,—

(a) in section 2, for clauses (b) and (c), the following clause shall be substituted, namely:—

“(b) “north-eastern area” means the area comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.”;

(b) in section 3, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

“(b) the Chief Ministers of the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.”.

Conti-
nuance of
existing
laws and
their
adapta-
tions.

46. (1) All laws in force, immediately before the appointed day, in the existing Union territory of Arunachal Pradesh shall continue to be in force in the State of Arunachal Pradesh until altered, repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of facilitating the application in relation to the State of Arunachal Pradesh of any law made before the appointed day, the appropriate Government may, within two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression “appropriate Government” means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government and as respects any other law, the Government of the State of Arunachal Pradesh,

47. Notwithstanding that no provision or insufficient provision has been made under section 46 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Arunachal Pradesh, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

Power to
construe
laws.

48. All courts and tribunals and all authorities discharging lawful functions throughout the existing Union territory of Arunachal Pradesh or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority, continue to exercise their respective functions.

Provisions
as to
continu-
ance of
courts,
etc.

49. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Effect of
provi-
sions
of Act
inconsis-
tent with
other laws.

50. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

Power
to re-
move
diffi-
culties.

Provided that no such order shall be made after the expiry of three years from the appointed day.

(2) Every order made under this section shall be laid before each House of Parliament.

51. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

Power to
make
rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[See section 16(1)]

AMENDMENTS TO THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950,—

(1) in paragraph 2, for the figures "XX", the figures "XXI" shall be substituted;

(2) in the Schedule, after Part XX, the following Part shall be inserted, namely:—

"PART XXI

Arunachal Pradesh

1. Bansbhor
2. Bhuimali or Mali
3. Britthial Bania or Bania
4. Dhupi or Dhobi
5. Dugla or Dholi
6. Hira
7. Jalkeot
8. Jhalo, Malo or Jhalo-Malo
9. Kaibartta or Jaliya
10. Lalbegi
11. Mahara
12. Mehtar or Bhangl
13. Muchi or Rishi
14. Namasudra
15. Patni
16. Sutradhar."

THE SECOND SCHEDULE

[See section 16(2)]

AMENDMENTS TO THE CONSTITUTION (SCHEDULED CASTES) (UNION TERRITORIES) ORDER, 1951

In the Constitution (Scheduled Castes) (Union Territories) Order, 1951,—

(1) in paragraph 2, for the words and figures "Parts I to III", the words and figures "Parts I and II" shall be substituted;

(2) in paragraph 4, for the figures "1956", the figures and word "1956 and" shall be substituted and the portion beginning with the words "and any reference to a Union territory" and ending with the words, brackets and figures "the North-Eastern Areas (Reorganisation) Act, 1971" shall be omitted;

(3) in the Schedule, PART III—Arunachal Pradesh shall be omitted.

THE THIRD SCHEDULE

[See section 17(1)]

AMENDMENTS TO THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In the Constitution (Scheduled Tribes) Order, 1950,—

(1) in paragraph 2, for the figures "XVII", the figures "XVIII" shall be substituted;

(2) in the Schedule, after Part XVII, the following Part shall be inserted, namely:—

"PART XVIII.—Arunachal Pradesh

All tribes in the State including:—

1. Abor
2. Aka
3. Apatani
4. Dafia
5. Galong
6. Khampti
7. Khowa
8. Mishmi
9. Momba
10. Any Naga tribes
11. Sherdukpen
12. Singpho."

THE FOURTH SCHEDULE

[See section 17(2)]

AMENDMENTS TO THE CONSTITUTION (SCHEDULED TRIBES) (UNION TERRITORIES) ORDER, 1951

In the Constitution (Scheduled Tribes) (Union Territories) Order, 1951,—

(2) in paragraph 2, for the words and figures "Part I and II" the word and figure "Part I" shall be substituted;

(2) in paragraph 3, the portion beginning with the words "and any reference", and ending with words, brackets and figures "the North-Eastern Areas (Reorganisation) Act, 1971" shall be omitted;

(3) in the Schedule, Part II.—Arunachal Pradesh shall be omitted.

STATEMENT OF OBJECTS AND REASONS

With a view to a satisfying the desires and aspirations of the people of Arunachal Pradesh, the Government of India have decided to undertake legislative measures to confer Statehood on the Union territory of Arunachal Pradesh. This Bill is intended to give effect to this decision and will come into force on a date to be notified by the Central Government. It seeks to establish a new State of Arunachal Pradesh comprising the territories of the existing Union territory of Arunachal Pradesh and makes the necessary supplemental, incidental and consequential provisions.

2. The notes on clauses explain in detail the provisions of the Bill.

NEW DELHI;

BUTA SINGH.

The 1st December, 1986.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 AND
274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 12013/5/86-SR, dated the 1st December, 1986 from Shri Buta Singh, Minister of Home Affairs to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the establishment of the State of Arunachal Pradesh and for matters connected therewith, recommends the introduction of the Bill in Lok Sabha under article 117(1) and 274(1) of the Constitution and the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.

Notes on clauses

Clauses 3 and 4.—Clauses 3 provides for the establishment of the new State of Arunachal Pradesh while clause 4 makes necessary consequential amendments in the First Schedule to the Constitution.

Clauses 5 and 6.—These clauses deal with the representation of Arunachal Pradesh in the Council of States. At present there is one seat in the said Council for the Union territory of Arunachal Pradesh. It is proposed to continue this representation for the new State also. The sitting Member from Arunachal Pradesh in the Council of States will be deemed to be duly elected and will represent the new State for the unexpired term.

Clause 7.—The amendment is of a consequential nature.

Clauses 8 and 9.—These clauses deal with representation of Arunachal Pradesh in the House of the People. At present there are two seats in the House of the People for the Union territory of Arunachal Pradesh. It is proposed to continue this representation for the new State also. The sitting Member from Arunachal Pradesh in the Council of States will be deemed to have been duly elected and will represent the new State.

Clause 10.—This clause provides that the number of seats in the Legislative Assembly of the State of Arunachal Pradesh to be filled by persons by direct election shall be 40.

Clause 11.—This clause provides for a provisional Legislative Assembly for the new State consisting of the existing members of the Union territory Assembly until the Legislative Assembly of the new State is duly constituted. This clause also provides for the period of 5 years in the case of the provisional Legislative Assembly being deemed to have commenced on the date on which the duration of the existing Union territory of Arunachal Pradesh.

Clause 12.—This clause provides for the continuance of the existing Speaker and Deputy Speaker of the Legislative Assembly of the Union territory of Arunachal Pradesh.

Clause 13.—This clause provides for the continuance of the existing rules of procedure of the Legislative Assembly of the existing Union territory of Arunachal Pradesh.

Clause 14 and 15.—These clause provide for delimitation of the Assembly Constituencies by the Election Commission according to the procedure generally followed by the Delimitation Commission.

Clauses 16 and 17 and the Schedule seek to make the necessary consequential amendments in the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Scheduled Tribes) Order, 1950 and the Constitution (Scheduled Tribes) (Union Territories) Order, 1951.

Clauses 18 to 29.—At present the jurisdiction of the common High Court for the States of Assam, Nagaland, Meghalaya, Manipur, Tripura and Mizoram, called the Gauhati High Court extends to the Union territory of Arunachal Pradesh. Clause 18 provides for common High Court for the States of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh to be called the Gauhati High Court. The detailed provisions contained in other clauses follow broadly the relevant provisions of the previous Reorganisation Acts and deal *inter alia* with the powers, functions and the procedure to be followed by the new common High Court.

Clauses 30 to 33.—These clauses deal with authorisation of expenditure and distribution of revenues. As it will take some time for the new State to prepare its budget and have it approved by the State Legislature, provision has been made in clause 30 that before the new State comes into existence, the President may, by order, authorise expenditure from the Consolidated Fund of the State for a period of six months. Thereafter the power will be exercised by the Governor. Provision has been made in clause 32 to enable the President to determine the allowances and privileges of the Governor of the new State. Clause 33 empowers the President to determine by order the grants-in-aid to the new State and its share of Central Taxes.

Clause 34.—This clause relates to transfer of property, assets, rights, liabilities and obligations to the new State. This clause provides that all properties and other assets in the Union territory of Arunachal Pradesh which are at present held for purposes of governance of the Union territory and which are not properties or assets held for Union purposes shall vest in the new State alongwith the cash balances in the treasuries in the Union territory. Under this clause, all rights, liabilities and other obligations arising out of or in connection with the governance of the Union territory excluding those relating to the Union purposes become the rights, liabilities and obligations of the new State. However, institutions, undertakings or projects financed at present out of the Consolidated Fund of India and properties of the Central Government placed at the disposal of the Government of Arunachal Pradesh will not be transferred to the new State [*vide* clause 34(4)]. It is not proposed to transfer any debt liability to the new State on account of the capital outlay made by the Central Government on the properties which become vested in the new State under the provisions of this clause.

Clauses 35 to 41.—Clause 35 provides for the officers of the Indian Administrative Service Indian Police Service and the Indian Forest Service serving in the Union territory at present being deemed to be on deputation on and from the appointed day to the Government of the State of Arunachal Pradesh on the same terms and conditions of service as are applicable under the relevant Cadre Rules, the period of such deputation not extending beyond a period of three years from the appointed day in any case. Clauses 36 to 38 are on the same lines as corresponding provisions of the previous Reorganisation Acts. Clause 39 provides for the establishment of one or more Advisory Committees by the Central Government for the purpose of assisting it in regard to the discharge of its functions relating to provisions as to services and for

ensuring a fair and equitable treatment to all persons so affected. Clause 40 prohibits representation against orders passed under the provisions of Part VII after a certain period. Clause 41 empowers the Central Government to give directions to the new State for the purpose of giving effect to the various provisions relating to services.

Clauses 42 to 45.—These clauses make consequential amendments in article 210 (relating to languages to be used in the Legislature), article 239A (creation of local Legislature or Council of Ministers or both or certain Union territories), article 240 (power of President to make regulations for certain Union territories). The consequential amendments also include amendments in the Armed Forces (Special Powers) Act 1958, the Government of Union Territories Act, 1963 and the North-Eastern Council Act, 1971.

Clauses 46 to 51.—These clauses make the usual provisions regarding the continuance of existing laws and adaptations of those laws and their interpretation by courts, etc. These provisions follow the corresponding provisions of the previous Reorganisation Acts.

FINANCIAL MEMORANDUM

Clause 14 of the Bill seeks to empower the Election Commission of India to delimit the assembly constituencies of the new State of Arunachal Pradesh. For this purpose, non-recurring expenditure of about Rs. 50,000 will have to be incurred. This expenditure will be met from the Consolidated Fund of India.

2. According to the Budget estimates of Arunachal Pradesh for the current year, the domestic revenue receipt of the Union territory are Rs. 17.95 crores, while the non-plan expenditure on revenue account is Rs. 65.61 crores. The gap is met by the grants-in-aid given by the Central Government. As a State, Arunachal Pradesh will be entitled to a share in the income tax and additional excise duties of the Central Government to the extent of about Rs. 4.35 crores. The new State's share in the basic excise duty of the Central Government will be determined by the Finance Commission. Consequently, the State's revenue would be augmented and the non-plan revenue deficit reduced correspondingly. In the past, Finance Commission has taken note of such deficits and recommended suitable grants-in-aid under article 275(1) of the Constitution. It is, therefore, proposed to provide for such quantum of grants-in-aid to the new State as may be considered necessary until the recommendations of the next Finance Commission become available, by suitably amending the provisions of the Constitution (Distribution of Revenue) Order, 1985, in exercise of the powers sought to be taken in clause 33 of the Bill.

3. Clause 39 of the Bill seeks to empower the Central Government to establish one or more Advisory Committees for the purpose of assisting it in regard to the discharge of its functioning in relation to allocation of members of the Services and the ensuring of fair and equitable treatment to all persons affected. Some expenditure not exceeding Rs. 5,000 may have to be incurred out of the Consolidated Fund of India on account of travelling allowances of members of the Committee.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 of the Bill enables the President to determine by order the allowances and privileges of the Governor of the new State.

2. Clause 33 of the Bill empowers the President to determine by order the grant-in-aid to the new State and its share of Central taxes and amend for that purpose the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962, and the Constitution (Distribution of Revenues) Order, 1985.

3. Clause 46 provides for the adaptation of existing laws to facilitate their application to the new State: The power to adapt is being conferred on the Central Government in the case of laws relating to matters enumerated in the Union List in the Seventh Schedule to the Constitution and on the Government of the new State in the case of all other laws.

4. Clause 51 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill when enacted. The rules, if any will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

5. The various provisions aforementioned are modelled on identical or analogous provisions in the State Reorganisation Acts passed by Parliament earlier. Besides, they are mainly of a consequential nature or pertain to matters of detail and procedure. As such the proposed delegation of legislative powers is of a normal character.

BILL No. 146 of 1986

A Bill to provide for the better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer council and other authorities for the settlement of consumer's disputes and for matters connected therewith.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Consumer Protection Act, 1986.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different States and for different provisions of this Act.
- (4) Save as otherwise expressly provided by the Central Government by notification, this Act shall apply to all goods and services.

Short
title,
extent,
com-
mence-
ment
and appli-
cation.

Definitions.

(1) In this Act, unless the context otherwise requires,—

(a) "appropriate laboratory" means a laboratory or organisation recognised by the Central Government and includes any such laboratory or organisation established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;

(b) "complainant" means—

(i) a consumer; or

(ii) any voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force; or

1 of 1958.

(iii) the Central Government or any State Government, who or which makes a complaint;

(c) "complaint" means any allegation in writing made by a complainant that—

(i) as a result of any unfair trade practice adopted by any trader, the complainant has suffered loss or damage;

(ii) the goods mentioned in the complaint suffer from one or more defects;

(iii) the services mentioned in the complaint suffer from deficiency in any respect;

(iv) a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods,

with a view to obtaining any relief provided by or under this Act;

(d) "consumer" means any person who,—

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person;

(e) "consumer dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint.

(f) "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or as is claimed by the trader in any manner whatsoever in relation to any goods;

(g) "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;

(h) "District Forum" means a Consumer Disputes Redressal Forum established under clause (a) of section 9;

3 of 1930. (i) "goods" means goods as defined in the Sale of Goods Act, 1930;

(j) "manufacturer" means a person who—

(i) makes or manufactures any goods or parts thereof; or

(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others and claims the end-product to be goods manufactured by himself; or

(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer and claims such goods to be goods made or manufactured by himself.

Explanation.—Where a manufacturer despatches any goods or part thereof to any branch office maintained by him, such branch office shall not be deemed to be the manufacturer even though the parts so despatched to it are assembled at such branch office and are sold or distributed from such branch office;

(k) "National Commission" means the National Consumer Disputes Redressal Commission established under clause (c) of section 9;

(l) "notification" means a notification published in the Official Gazette;

(m) "person" includes,—

(i) a firm whether registered or not;

(ii) a Hindu undivided family;

(iii) a co-operative society;

21 of 1860. (iv) every other association of persons whether registered under the Societies Registration Act, 1860 or not;

(n) "prescribed" means prescribed by rules made by the State Government, or as the case may be, by the Central Government under this Act;

(o) "service" means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing,

supply of electrical or other energy, board or lodging or both, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

(p) "State Commission" means a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9;

(q) "trader" in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof;

(r) the expression "unfair trade practice" shall have the same meaning as in section 36A of the Monopolies and Restrictive Trade Practices Act, 1969, but shall not include an unfair trade practice adopted by the owner of an undertaking to which Part A of Chapter III of that Act applies or by any person acting on behalf of, or for the benefit of, such owner.

54 of 1969.

(2) Any reference in this Act to any other Act or provision thereof which is not in force in any area to which this Act applies shall be construed to have a reference to the corresponding Act or provision thereof in force in such area.

3. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

CHAPTER II

CONSUMER PROTECTION COUNCILS

Act not
in deroga-
tion of
any other
law.

The Cen-
tral Con-
sumer
Protection
Council.

4. (1) The Central Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council).

(2) The Central Council shall consist of the following members, namely:—

(a) the Minister in charge of the Department of Food and Civil Supplies in the Central Government, who shall be its Chairman, and

(b) such number of other official or non-official members representing such interests as may be prescribed.

Procedure
for meet-
ings of
the
Central
Council.

5. (1) The Central Council shall meet as and when necessary, but not less than three meetings of the Council shall be held every year.

(2) The Central Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

Objects
of the
Central
Council.

6. The objects of the Central Council shall be to promote and protect the rights of the consumers such as,—

(a) the right to be protected against the marketing of goods which are hazardous to life and property;

(b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods so as to protect the consumer against unfair trade practices;

(c) the right to be assured, wherever possible, access to a variety of goods at competitive prices;

(d) the right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums;

(e) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and

(f) the right to consumer education.

7. (1) The State Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council for..... (hereinafter referred to as the State Council).

The State
Consumer
Protection
Councils.

(2) The State council shall consist of such members as may be specified by the State Government by notification from time to time.

8. The objects of every State Council shall be to promote and protect within the State the rights of the consumers laid down in clauses (a) to (f) of section 6.

Objects of
the State
Council.

CHAPTER III

CONSUMER DISPUTES REDRESSAL AGENCIES

9. There shall be established for the purposes of this Act, the following agencies, namely:—

Establish-
ment of
Consumer
Disputes
Redressal
Agencies.

(a) a Consumer Disputes Redressal Forum to be known as the "District Forum" established by the State Government with the prior approval of the Central Government in each district of the State by notification;

(b) a Consumer Disputes Redressal Commission to be known as the "State Commission" established by the State Government with the prior approval of the Central Government in the State by notification; and

(c) a National Consumer Disputes Redressal Commission established by the Central Government by notification.

10. (1) Each District Forum shall consist of—

Compo-
sition of
the District
Forum.

(a) a person who is, or has been, or is qualified to be a District Judge to be nominated by the State Government, to be its President;

(b) a person of eminence in the field of education, trade or commerce;

(c) a lady social worker.

(2) Every member of the District Forum shall hold office for a term of five years or up to the age of 65 years whichever is earlier, and shall not be eligible for re-appointment:

Provided that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by the appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who has resigned.

(3) The salary or honorarium and other allowance payable to, and the other terms and conditions of service of the members of the District Forum shall be such as may be prescribed by the State Government.

Juris-
diction
of the
District
Forum.

11. (1) Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed is less than rupees one lakh.

(2) A complaint shall be instituted in a District Forum within the local limits of whose jurisdiction,—

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business, or personally works for gain, or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the permission of the District Forum is given, or the opposite parties who do not reside, or carry on business, or personally work for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Manner
in which
com-
plaint
shall be
made.

12. A complaint, in relation to any goods sold or delivered or any service provided, may be filed with a District Forum by—

(a) the consumer to whom such goods are sold or delivered or such service provided,

(b) any recognised consumer association, whether the consumer to whom the goods sold or delivered or service provided is a member of such association or not; or

(c) the Central or the State Government.

Explanation.—For the purpose of this section “recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.

1 of 1956.

Proce-
dure on
receipt
of com-
plaints.

13. (1) The District Forum shall, on receipt of a complaint, if it relates to any goods,—

(a) refer a copy of the complaint to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

(b) where the opposite party on receipt of a complaint referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);

(c) where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the District Forum shall obtain a sample of the goods from the complainant, seal it and authenticate it in the manner prescribed and

refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory make an analysis or test, whichever may be necessary, with a view to finding out whether such goods from any defect alleged in the complaint or suffer from any other defect and to report its findings thereon to the District Forum within a period of forty-five days of the receipt of the reference or within such extended period as may be granted by the District Forum;

(d) before any sample of the goods is referred to any appropriate laboratory under clause (c), the District Forum may require the complainant to deposit to the credit of the Forum such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;

(e) the District Forum shall remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, the District Forum shall forward a copy of the report along with such remarks as the District Forum may feel appropriate to the opposite party;

(f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, the District Forum shall require the opposite party or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory;

(g) the District Forum shall thereafter give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) and issue an appropriate order under section 14.

(2) The District Forum shall, if the complaint received by it under section 12 relates to goods in respect of which the procedure specified in sub-section (1) cannot be followed, or if the complaint relates to any services,—

(a) refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

(b) where the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute,—

(i) on the basis of evidence brought to its notice by the complainant and the opposite party, where the opposite party denies or disputes the allegations contained in the complaint, or

(ii) on the basis of evidence brought to its notice by the complainant where the opposite party omits or fails to take any action to represent his case within the time given by the Forum.

(3) No proceedings complying with the procedure laid down in sub-sections (1) and (2) shall be called in question in any court on the ground that the principles of natural justice have not been complied with.

(4) For the purposes of this section, the District Forum shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

5 of 1908.

(i) the summoning and enforcing attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence;

(iii) the reception of evidence on affidavits;

(iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;

(v) issuing of any commission for the examination of any witness; and

(vi) any other matter which may be prescribed.

(5) Every proceeding before the District Forum shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, and the District Forum shall be deemed to be a civil court for the purposes of section 195, and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Finding
of the
District
Forum.

14. (1) If, after the proceeding conducted under section 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to take one or more of the following things, namely:—

(a) to remove the defect pointed out by the appropriate laboratory from the goods in question;

(b) to replace the goods with new goods of similar description which shall be free from any defect;

(c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;

(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party.

(2) Every order made by the District Forum shall under sub-section (1) be signed by all the members constituting it and, if there is any difference of opinion, the order of the majority of the members constituting it shall be the order of the District Forum.

(3) Subject to the foregoing provisions, the procedure relating to the conduct of the members of the District Forum, its sitting and other matters shall be such as may be prescribed by the State Government.

15. Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed:

Appeal.

Provided that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

16. (1) Each State Commission shall consist of,—

Composition of the State Commission.

(a) a person who is or has been a Judge of a High Court, appointed by the State Government, who shall be its President;

(b) two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman:

Provided that no sitting Judge of a High Court shall be appointed under this sub-section except after consultation with the Chief Justice of that High Court.

(2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service (including tenure of office) of the members of the State Commission shall be such as may be prescribed by the State Government.

17. Subject to the other provisions of this Act, the State Commission shall have jurisdiction,—

Jurisdiction of the State Commission.

(a) to entertain—

(i) complaints where the value of the goods or services and compensation if any, claimed exceeds rupees one lakh but does not exceed rupees ten lakhs; and

(ii) appeals against the orders of any District Forum within the State; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State, where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

18. The procedure specified in sections 12, 13 and 14 and under the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be necessary, be applicable to the disposal of disputes by the State Commission.

Procedure applicable to State Commissions.

19. Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against such order to the National Com-

Appeals.

mission within a period of thirty days from the date of the order in such form and manner as may be prescribed:

Provided that the National Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

Compo-
sition of
the Natio-
nal Com-
mission.

20. (1) The National Commission shall consist of,—

(a) a person who is or has been a Judge of the Supreme Court, to be appointed by the Central Government, who shall be its President;

(b) four other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman:

Provided that no sitting Judge of the Supreme Court shall be appointed under this sub-section except after consultation with the Chief Justice of that Court.

(2) The salary or honorarium and other allowances payable to and the other terms and conditions of service (including tenure of office) of the members of the National Commission shall be such as may be prescribed by the Central Government.

Juris-
diction of
the
National
Commis-
sion.

21. Subject to the other provisions of this Act, the National Commission shall have jurisdiction,—

(a) to entertain,—

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees ten lakhs; and

(ii) appeals against the orders of any State Commission; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

Proce-
dure
appli-
cable
to the
National
Com-
mission.

22. The National Commission shall, in the disposal of any complaints or of any proceedings before it, have the powers of a civil court as specified in sub-sections (4) and (5) of section 13 and follow such procedure as may be prescribed by the Central Government.

Appeal.

23. Any person aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 21 may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

24. Every order of a District Forum, State Commission or the National Commission shall, if no appeal has been preferred against such order under the provisions of this Act, be final.

Finality
of orders.

25. Every order made by the District Forum, the State Commission or the National Commission may be enforced by the District Forum, the State Commission or the National Commission, as the case may be, in the same manner as if it were a decree or order made by a court in a suit pending therein and it shall be lawful for the District Forum, the State Commission or the National Commission to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction,—

Enforce-
ment
of orders
by the
Forum,
the State
Commis-
sion or
the
National
Commis-
sion.

(a) in the case of an order against a company, the registered office of the company is situated, or

(b) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated,

and thereupon, the court to which the order is so sent, shall execute the order as if it were a decree or order sent to it for execution.

26. Where a complaint instituted is found to be frivolous or vexatious, the District Forum, the State Commission or, as the case may be, the National Commission, may dismiss the complaint.

Dismissal
of fri-
volous or
vexatious
com-
plaints.

27. Where a trader or a person against whom a complaint made fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both:

Penalties.

Provided that the District Forum, the State Commission or the National Commission, as the case may be, may, if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment or fine, or both, for a term lesser than the minimum term and the amount lesser than the minimum amount, specified in this section.

CHAPTER IV

MISCELLANEOUS

28. No suit, prosecution or other legal proceedings shall lie against the members of the District Forum, the State Commission or the National Commission or any officer or person acting under the direction of the District Forum, the State Commission or the National Commission for executing any order made by it or in respect of anything which is in good faith done or intended to be done by such member, officer or person under this Act or under any rule or order made thereunder.

Pro-
tection
of action
taken in
good
faith.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear

Power to
remove
difficul-
ties.

to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power
to make
rules.

30. (1) The Central Government may, by notification, make rules for carrying out the provisions contained in clause (b) of sub-section (2) of section 4, sub-section (2) of section 5, clause (vi) of sub-section (4) of section 13, section 19, sub-section (2) of section 20 and section 22 of this Act.

(2) The State Government may, by notification, make rules for carrying out the provisions contained in sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, sub-section (3) of section 14, section 15 and sub-section (2) of section 16.

Laying
of rules.

31. (1) Every rule made by the Central Government under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The Consumer Protection Bill, 1986 seeks to provide for better protection of the interests of consumers and for the purpose, to make provision for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected therewith.

2. It seeks, *inter alia*, to promote and protect the rights of consumers such as—

(a) the right to be protected against marketing of goods which are hazardous to life and property;

(b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices;

(c) the right to be assured, wherever possible, access to an authority of goods at competitive prices;

(d) the right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums;

(e) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and

(f) right to consumer education.

3. These objects are sought to be promoted and protected by the Consumer Protection Council to be established at the Central and State level.

4. To provide speedy and simple redressal to consumer disputes, a quasi-judicial machinery is sought to be set up at the district, State and Central levels. These quasi-judicial bodies will observe the principles of natural justice and have been empowered to give reliefs of a specific nature and to award, wherever appropriate, compensation to consumers. Penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided.

5. The Bill seeks to achieve the above objects. The Notes on Clauses explain in detail the provisions of the Bill.

NEW DELHI;

H. K. L. BHAGAT

1st December, 1986.

Notes on Clauses

Clause 1.—Indicates short title of the Bill, its extent and dates of commencement and application of its various provisions.

Clause 2.—It is a definition clause.

Clause 3.—Provides that provisions of the Bill shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Clause 4.—Provides for establishment of Consumer Protection Council at the Centre.

Clause 5.—Indicates procedure for the meetings of the Central Council.

Clause 6.—Indicates objectives of the Central Council.

Clause 7.—Provides for establishment of State Consumer Protection Council.

Clause 8.—Indicates objectives of the State Council.

Clause 9.—Provides for establishment of Consumer Disputes Redressal Forum in each District of the State.

Clause 10.—Indicates the composition of District Forum.

Clause 11.—Gives jurisdiction of the District Forum.

Clause 12.—Gives the manner in which the complaints of the consumers shall be made to the District Forum.

Clause 13.—Indicates the procedure to be followed by District Forum on receipt of consumer complaints.

Clause 14.—Indicates the powers of District Forum to direct the removal of defects, award of compensation etc.

Clause 15.—Provides for appeal against the order of District Forum.

Clause 16.—Provides for composition of State Commission.

Clause 17.—Indicates the jurisdiction of State Commission.

Clause 18.—Provides for manner of receiving complaints and procedure before the State Commission.

Clause 19.—Provides for appeal against the order of State Commission.

Clause 20.—Provides for composition of National Commission.

Clause 21.—Indicates the jurisdiction of National Commission.

Clause 22.—Indicates the manner of receiving complaints and procedure of the National Commission.

Clause 23.—Provides for appeal against the orders of National Commission.

Clause 24.—Provides for the enforcement of the orders by District Forum, State Commission and National Commission.

Clause 25.—Provides for the dismissal of frivolous or vexatious complaints from the consumers.

Clause 26.—Provides for the penalties, where offender does not comply with the orders of District Forum, State Commission and National Commission.

Clause 27.—Provides for protection to the members|officers of District Forum, State Commission or National Commission for action taken in good faith.

Clause 28.—Provides for powers of Central Government to remove difficulties in giving effect to the provisions of the Bill.

Clause 29.—Provides for the powers of the Central and State Governments to make rules for carrying out the different provisions of the Bill.

Clause 30.—Provides that every rule made by Central Government under the Bill shall be laid before each House of the Parliament and every rule made by State Government shall be laid before the State Legislature.

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides for a National Commission to be set up by the Central Government which will consist of one full-time Judge of the level of a Supreme Court Judge and four non-official members. The annual expenditure of the Centre on the National Commission will be about Rs. 7.15 lakhs. It also provides for setting up of a state level Commission and district level consumer disputes redressal Forums in States|Union Territories. The State Commission will comprise of a Judge of the level of a High Court Judge and two other non-official members. The District Forum will consist of a Judge of the level of a District Judge and two non-official members. The expenditure on State Commission and District Forums for Union Territories will be about Rs. 78 lakhs per annum. A recurring expenditure of Rs. 85.15 lakhs per annum, therefore, is envisaged from the Consolidated Fund of India for the machinery in the Centre and the Union Territories.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 30 of the Bill refers to the various provisions of the Bill which confers power on the Central Government to make rules for carrying out the purposes of the Bill. These provisions *inter alia*, relate to prescribing the interests to be represented in the Central Consumer Protection Council, the procedure in regard to the transaction of business of the Central Council, the matters in respect of which the District Consumer Disputes Redressal Forum may have the powers of a civil court under the Civil Procedure Code, 1908, apart from the matters specified in sub-clauses (i) to (v) of clause 13(4), the form and manner in which appeals may be preferred to the National Commission from the orders of the State Commission, the salary and other terms and conditions of service of the members of the National Commission and the procedure or proceedings before the National Commission.

2. Similarly, the State Government have also been empowered to make rules under clause 30(2) of the Bill for purpose of prescribing the salary and other terms and conditions of service of the members of the District Forum and the State Commission, the form and manner in which appeals against the orders of the District Forum may be preferred to the State Commission.

3. These are matters of procedure and administrative detail and the delegation of legislative powers is of a normal character.

BILL No. 150 OF 1986

A Bill to amend the Standards of Weights and Measures Act, 1976.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commence-
ment.

1. (1) This Act may be called the Standards of Weights and Measures (Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 72.

2. In section 72 of the Standards of Weights and Measures Act, 1976, for clause (a), the following clause shall be substituted, namely:— 60 of 1976.

‘(a) no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by—

- (i) the Director;
- (ii) any other authorised officer;
- (iii) any person aggrieved; or

(iv) a recognised consumer association whether the person aggrieved is a member of such association or not.

Explanation.—For the purposes of this clause “recognised consumer association” means a voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force;’ 1 of 1956.

STATEMENT OF OBJECTS AND REASONS

The Standards of Weights and Measures Act, 1976 is an important and potent consumer protection legislation which is designed to establish standards of weights and measures and to regulate inter-State trade or commerce in weights, measures and packaged commodities. The Act at present does not confer any right on the aggrieved consumer or recognised consumer associations to file complaints in the court.

2. To promote voluntary consumer movement and ensure involvement of consumers as well as recognised consumer associations in the enforcement of this Act, it is considered desirable to confer specific right on the consumer aggrieved or recognised consumer associations for filing complaints to be taken cognizance of by courts. Accordingly, it is proposed to amend clause (a) of section 72 of the Act to confer rights on the aggrieved consumer or a recognised consumer association to file a complaint in courts. Opportunity has also been taken to explain the expression "recognised consumer association" under the Act so as to mean a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force.

3. In section 32 of the principal Act, in sub-section (1), after the

NEW DELHI;

H. K. L. BHAGAT.

The 1st December, 1986.

BILL NO. 149 OF 1986

further to amend the Drugs and Cosmetics Act, 1940.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commence-
ment.

1. (1) This Act may be called the Drugs and Cosmetics (Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 26.

2 In section 26 of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the principal Act),—

23 of 1940.

(a) after the words "Any person", the words "or any recognised consumer association, whether such person is a member of that association or not," shall be inserted;

(b) for the words "purchased by him", the words "purchased by him or it" shall be substituted;

(c) the following *Explanation* shall be added at the end, namely:—

Explanation.—For the purposes of this section and section 32, "recognised consumer association" means a voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.

1 of 1956.

Amend-
ment of
section
32.

3. In section 32 of the principal Act, in sub-section (1), after the words "an Inspector", the words "or by the person aggrieved or by a recognised consumer association whether such person is a member of that association or not" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Drugs and Cosmetics Act, 1940 is a consumer protection legislation, which is mainly concerned with the standards and purity of drugs manufactured in this country and control of the manufacture, sale and distribution of drugs. The Act at present does not confer any power on the recognised Consumer Associations to draw legal samples and launch prosecution.

2. To promote Voluntary Consumer Movement and to ensure involvement of recognised Consumer Associations in the enforcement of this Act, it is necessary to confer powers on them so that legal action can be initiated by them in the Court on the basis of test reports given by the Government Analyst. Accordingly, it is proposed to amend suitably sections 26 and 32 of the Act to confer powers on such Consumer Associations in this regard.

3. Opportunity has been taken to explain the expression "recognised Consumer Association registered under the Companies Act, 1956 or any other law for the time being in force.

4. The Bill seeks to achieve the above object.

NEW DELHI;

P. V. NARASIMHA RAO.

The 1st December, 1956.

SUBHASH C. KASHYAP,
Secretary-General.

